

REMARKS

Claims 1-19 are pending in the present application.

Restriction Requirement/Unity of Invention

The Examiner has required election in the present application between:

Group I, claims 1-11, drawn to an electric power generating element for a liquid fuel cell; and

Group II, claims 12-19, drawn to a method for producing an electric power generating element for a liquid fuel cell.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1-11.

Based upon the Examiner's comments, the Examiner appears to disregard the fact that the present application is a national phase 371 application, and as such, the claims should be reviewed under unity of invention practice without regard to the practice in national applications filed under 35 USC 111.

Rule 13.1 states:

[t]he international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

Also, as stated in Rule 13.2, the requirement for unity of invention "shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."

Upon careful review of the Examiner's comments in the June 13, 2008 communication, there is no rationale given which would be appropriate for a finding of lack of unity under unity of invention practice.

Furthermore, Applicants respectfully submit that if the Examiner reviewed the claims under unity of invention practice, the Examiner would not find that there is a lack of unity, since the corresponding technical feature of Group I and Group II is that the power generating element for a liquid fuel cell comprises:

- a positive electrode for reducing oxygen;
- a negative electrode for oxidizing fuel; and
- a solid electrolyte placed between the positive electrode and the negative electrode,
- wherein the positive electrode and the negative electrode respectively include:
 - a catalyst layer with a thickness of 20 μm or more,
 - at least one of the respective catalyst layers has a pore with a pore diameter in a range of 0.3 μm to 2.0 μm , and a pore volume of the pore is 4% or more with respect to a total pore volume.

Lastly, there is no requirement that the method claims depend from the product claims (or vice versa) for unity of invention to exist, so long as there is a corresponding technical feature.

Accordingly, rejoinder of Groups I and II is respectfully requested.

Housekeeping

Applicants note that the PTO has not acknowledged the REVOCATION OF POWER OF ATTORNEY AND NEW POWER OF ATTORNEY form which was entered into PAIR on April 3, 2006. The Examiner is respectfully requested to take the steps necessary to have all future official communications addressed to:

Customer Number 02292
BIRCH, STEWART, KOLASCH & BIRCH LLP
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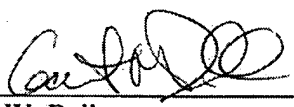
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq., Registration No 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: July 14, 2008

Respectfully submitted,

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